

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**ESAU TORRES MENDOZA and all** §  
**others similarly situated under 29 U.S.C.** §  
**216(B),** §  
 §  
**Plaintiff,** §  
 §  
**vs.** § **Civil Action No. 3:10-CV-02436-G (BD)**  
 §  
 §  
**DETAIL SOLUTIONS, LLC f/k/a** §  
**UPTOWN DETAIL AND SPA and** §  
**CAROLE AUSTEIN, INDEPENDENT** §  
**EXECUTRIX OF THE** §  
**ESTATE OF CHARLES AUSTEIN** §  
 §  
**Defendants.** §

**PLAINTIFF’S RESPONSE TO DEFENDANT  
DETAIL SOLUTIONS, LLC’S MOTION FOR SUMMARY JUDGMENT**

Plaintiff, Esau Torres Mendoza (“Plaintiff” or “Mendoza”) files this Response to the Motion for Summary Judgment (D.E. 74) (“DMSJ”), Brief in Support (D.E. 75) (“DBS”) and Appendix in Support (D.E. 76) (“Def. App.”) (collectively the “MSJ”), filed by Detail Solutions, LLC f/k/a Uptown Detail and Spa (“Defendant” or “DSUDS”) and would show the Court as follows:

1. On December 1, 2010 Plaintiff filed his Complaint alleging violations of the Fair Labor Standards Act (“FLSA”) under 29 U.S.C. 201-216 and retaliation under 29 U.S.C. 215(A)(3) (D.E. 1). On June 20, 2012 DSUDS filed the MSJ.
2. The basis of the MSJ is twofold:
  - i. The FLSA does not apply because SDSUDS and Plaintiff did not engage in interstate commerce; and

- ii. Plaintiff is undocumented and therefore cannot recover back wages.
3. Under Federal Rule of Civil Procedure 56, Defendant is not entitled to summary judgment on either basis as either genuine issues of material fact exist with regard to the elements necessary to establish the defenses raised by Defendants or the law is not settled.
4. As provided by Local Rule 56.4(b), each of the required matters set forth in Local Rule 56.4(a) will be set forth in the Brief in Support of Plaintiff's Response to Defendant's Motion for Summary Judgment filed in this case.

### **Conclusion & Prayer**

For these reasons, Plaintiff respectfully requests that the Court deny Defendant's Motion for Summary Judgment and grant Plaintiff all such other relief that the Court deems just.

Respectfully submitted,

By: /s/ Robert L. Manteuffel  
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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on all counsel and parties of record by electronic service in accordance with the local rules of United States District Court for the Northern District of Texas, Dallas Division this 10<sup>th</sup> day of July, 2012.

/s/ Robert L. Manteuffel  
Robert L. Manteuffel  
Counsel for the Plaintiff